In the High Court of Uttaranchal at Nainital.

Govt. Appeal No. 1104/2001
(Old No. 457 of 1986)

State of U.P. …….Appellant.

Vs.

Virendra Singh S/o Sab Singh R/o Sundar
Main Bazar, Hanuman Chowk, Uttarkashi …..Respondent.

Hon'ble Irshad Hussain, J.

Heard Sri Nandan Arya learned A.G.A. and perused the record of the appeal.

This criminal appeal was preferred against the judgment of acquittal recorded per judgment and order dated 7-10-1985 in criminal case No. 478/1984 by C.J.M., Uttarkashi. The respondent-accused was acquitted of the charge under section 411 I.P.C. The case property was "Dhoal" of Mandir. The record of the lower court had been weeded out and therefore the evidence of the witnesses is not available for reappreciation. Even otherwise from the perusal of the judgment of the learned Magistrate it is evident that the statements of the witnesses were not found reliable in regard to the recovery of the pieces of the "Dhoal". The identify of the pieces was also not established to indicate that these were of the stolen "Dhoal".

In view of above it can not be said that the judgment of acquittal was based on improper and unjust appreciation of the evidence. The appeal lack merit and is dismissed.

(Irshad Hussain, J.)

Dated: 05-06-2004
ISB